

APPENDIX TO BRIEF

On January 13, 1965, the petitioner filed in the Supreme Court of Iowa a motion for Bill of Particulars which was accompanied by a letter. The petitioner in his motion stated that if the Iowa Supreme Court refused his request to sustain his motion, "... the Attorney General should be obligated to give a ruling as to whether a poor person is entitled to counsel when a habeas corpus proceeding is granted" (R. 22-23).

In response to this motion and letter, Iowa Assistant Attorney General Don R. Bennett wrote petitioner on January 21, 1965, the following letter:

"Dear Mr. Entsminger:

"Enclosed is a copy of a Supreme Court order denying your motion for a bill of particulars.

"I am writing you because, in connection with your motion for a bill of particulars, you had requested an opinion from the Attorney General. The documents filed by you with respect to the motion does not clearly set forth your grounds for complaint. I gather, however, that you previously filed a petition for a writ of habeas corpus and had a hearing, during the course of which you were not represented by counsel. Since our records reflect that you presently have pending an appeal from your conviction and in connection therewith are represented by counsel, Henry Wormley, we see no justifiable basis for your complaint set forth in the motion for a bill of particulars. We suggest that your best course of action would be to wait the outcome of your appeal to the Supreme Court.

"Sincerely,

"DON R. BENNETT
"Assistant Attorney General"

Meanwhile, on January 20, 1965, petitioner wrote the following letter to the Attorney General of Iowa:

"Sir:

"Regarding the case of the State of Iowa v. Entsminger, Criminal, Case No. 51568, Polk County District Court, Des Moines, Iowa.

"I would like to bring to your attention my case, this case concerns a poor person who could not afford counsel, so had to depend on a court appointed attorney.

"During three day's of trail and Six State Witnesses the only objections entered in this case was when I demanded that certain evidence entered by objected to by my Lawyer this he objected to.

"My attorney *didnot* even question two Witnesses, but the main point is during states questioning of Witnesses the prosecuting attorney was in complete control. I was charged with one check in the indictment, but merely *saughtered* in front of the jury for many checks because my Lawyer, never entered one objection to the prosecuting attorneys questioning of Witnesses or the prosecuting attorneys arguement to the jury, the transcript will show this *two* be true!

"Sir, on the 9th day of Oct, 1964 I personally complained to the Hon. Judge Needham, trail Judge, and requested I be appointed new counsel to aid me in filing motion for new trail because I had inadequate counsel during my trail, and I quote from the record Judge Needham, statement, I will endeavor to obtain Counsel that will willingly accept appointment.

"That one attorney Mr. Van Vooris of Des Moines, explained to Judge Needham, he *didnot* want the appointment because he was a friend of my trail attorney.

"That in Oct 16, 1964 Mr. Wormley was appointed to represent me on my motion for new trail, and was

advised of the situation, and did willingly accept appointment that at first I requested my trail attorney be dismissed, but after a short talk with Mr. Wormley he was left in for the purpose of giving information to Mr. Wormley, my new attorney.

"Might I say before I go any further that I think Mr. Wormley is a good attorney and he gave a good argument on motion for a new trail every point he raised I would want raised on motion for new trail or appeal this I agree, but even he completely ignored the fact of inadequate Counsel, during my trail, that I did request new Counsel to file motion for new trail so this point could be raised in my motion for new trail among other errors in my trail. That Mr. Wormley accepted his appointment by the Court willingly but at the time of motion for new trail would not raise the point of inadequate Counsel, that Mr. Wormley had taken an appeal for me and still this point is not being raised in my appeal, and it can be remembered by the trail court this was my reason for the appointment of new Counsel, everything here is of record in the Polk County, District Court, Except for Mr. Van Voorhis refusing appointment I believe this was in private between him and Judge Needham. The Story I have just told you is the case of the poor person who has no money to afford counsel of his own there is no attorney it seems will go against some other attorney and claim he was inadequate when representing a poor person during trail, this is the reason I did not release Mr. Wormley and he is filing my appeal. I find it useless to have the Court keep appointing new Counsel, the reason I ask for them to be appointed is because of inadequate counsel to start with, and yet this point is completely ignored.

"Sir, I am not attorney I'm not even to smart but smart enough to know I was not properly represented during my trail and it was a deliberate act on my Court appointed attorney's part.

"Other thing's concerning my experiences with the prosecuting attorneys office in Des Moines, is all during my trail is that I was threatened with other check charge's if I went to trail. *Im* being threatened now because of an appeal being *taking*. Why wasn't I charged in the indictment with these charges and had them disposed of before I left to come here they had these check's then.

"If what I have told is due process of Law Sir, I have had my share!!

"I do not know the first thing about getting this matter properly in Court, and will not attempt on my own cause if I did it it would look like some kind of joke out of *abook*. but sooner or later I will find someone who is enterested *enough* to look into this matter *thorley*. I will keep trying until I do Sir. if you cannot ~~do~~ anything concerning this matter I ask that you refer this to Someone who can. I did have inadequate Counsel during my trail also during my motion for new trail and now on appeal, because Mr. Wormley did willingly accept appointment then ignored the issued invalid inadequate Counsel.

"I thank you for your time and consideration. Your acknowledgement Requested.

"Mail this 20th day of January, 1965

"(s) Harvey Entsminger"

Sworn to before me at my office this 20th day of January, 1965.

Notary Public in and for Lee County At Fort
Madison, Iowa

My Commission Expires July 4, 1966.

On January 25, 1965, petitioner received, in response to his letter of January 20, the following letter from Don B. Bennett, Assistant Attorney General:

"Dear Mr. Entsminger:

"This will acknowledge your recent letter wherein you allege that you were not adequately represented at trial and that you were unable to bring this fact to the court's attention in connection with your motion for a new trial. You also indicate that the point is not being pressed before the Supreme Court on your appeal. As nearly as I can ascertain from your letter, your major complaint is that the defense attorney did not object to the State's attempt to enter evidence of check charges other than the one you were being tried for.

"Since we have not, as yet, received either a copy of the abstract of record on appeal or a copy of the brief and argument prepared for your appeal, we are not in a position to conclude that the attorney handling your appeal will not raise the points you contend should be in issue. In the event that your contention is not raised in the brief and argument, I suggest that you call this factor to your attorney's attention. If, following that move, the points are still not pressed, I can see nothing objectionable to your drawing up a paper to supplement the brief and argument, setting forth your contention as to how you feel you were denied a fair trial. I am certain that the Supreme Court would accept such a document and give it consideration in passing on your appeal.

"At this point, this is about the only advice I can give you. I do appreciate your position insofar as you are unable to retain your own counsel. If you have further questions I will try to be of assistance to you.

"Very truly yours,

"DON R. BENNETT

"ASSISTANT ATTORNEY GENERAL"